



**UNITED STATES DEPARTMENT OF COMMERCE
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SEP 05 2000

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In re Application of	:	
McKechnie et al	:	Response to
Application No.: 09/308,860	:	
PCT No.: PCT/GB97/03317	:	Status Inquiry
Int. Filing Date: 03 December 1997	:	
Priority Date: 04 December 1996	:	
Attorney's Docket No.: 08291/600001	:	
For: METHOD OF CONTROLLING AND REMOVING	:	
DUST AND OTHER PARTICLES FROM A MATERIAL	:	

This is in response to applicant's petition filed 21 June 2000 and supplemental to petition filed 14 August 2000.

BACKGROUND

On 17 June 1999, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form-PCT/DO/EO/905) indicating that an oath or declaration and the surcharge for filing the oath or declaration later than 30 months from the priority date must be filed. The notification set a one-month time limit in which to respond.

On 28 March 2000, the United States Designated/Elected Office mailed a Notification of Abandonment under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/909) indicating that the applicant failed to respond to the Notification of Missing Requirements.

DISCUSSION

The petition is being treated as a petition under 37 CFR 1.181 in accordance with the revised policy published at 1156 OG 53, *Withdrawing the Holding of Abandonment When Office Actions Are Not Received*.

The showing required by the notice to establish the failure to receive an Office action must consist of a statement from the practitioner stating that the Office action was not received by practitioner and attesting to the fact that a search of the filed jacket and docket records indicate that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. Thus, what the Office now requires, as set forth in the OG notice, are the docket reports for when the response is due. Thus, the required evidence is the docket report for the time period of 17 July 1999 (when the oath or declaration and fees were due).

Applicant has not submitted the required statement from the practitioner stating that the Office action was not received by practitioner and attesting to the fact that a search of the filed jacket and docket records indicate that the Office action was not received.

APPLICATION NUMBER

The copy of the 26 May 1999 transmittal letter filed with the status inquiry on 17 November 1999 was mistakenly taken for a new filing and were assigned application number 09/423,399. These papers have been transferred to application number 09/308,860. All further actions with respect to this application should be addressed to 09/308,860.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



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